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June 26, 2013

By Electronic Filing

Ms. Marlene H. Dortch
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: In the Matter of Promoting Interoperability in the 700 MHz Commercial Spectrum, WT Docket No. 12-69

Notice of Ex Parte Presentation

Dear Ms. Dortch:

On Wednesday, June 26, 2013, representatives of AT&T Services, Inc. ("AT&T") met with Federal Communications Commission ("Commission") staff to discuss issues raised in the above-referenced proceeding. In attendance were David Lawson (of the law firm Sidley Austin), Joseph Marx, Michael Goggin, and Alex Starr representing AT&T; and Jim Schlichting, Tom Peters, Paul D'Ari and Maria Kirby of Commission staff.

AT&T and Commission staff discussed the matters described in the attached document.

Please direct any questions to the undersigned.

Sincerely,

/s/ Joseph P. Marx

Attachment

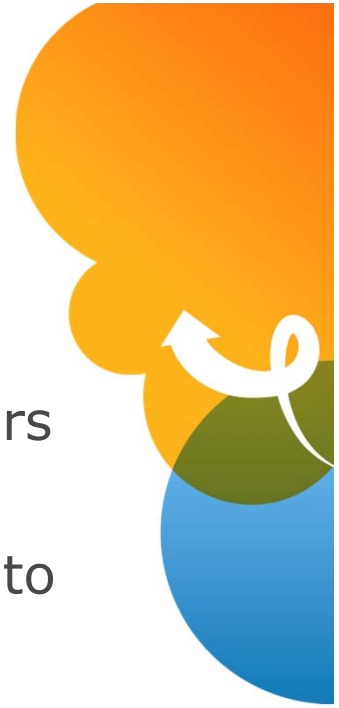
cc: Jim Schlichting
Tom Peters
Paul D'Ari
Maria Kirby

Rethink Possible

LOWER 700 MHZ INTEROPERABLITY

A BAND 12 MANDATE WOULD CAUSE HARM AND WOULD NOT RESOLVE THE UNDERLYING A-BLOCK ISSUES

A BAND 12 MANDATE WOULD CAUSE GREAT HARM AND OFFER NO BENEFIT



- Even assuming AT&T continued to use Band 17, a Band 12 device mandate would harm AT&T customers and competition.
- It would not resolve the interference issues that led to the creation of Band 17. A-block would remain subject to exclusion zones
- It is unnecessary to create a Band 12 device ecosystem.
- It would be an extraordinary, unprecedented and unlawful regulatory intrusion.

PROBLEMS WITH USING AN ADDITIONAL PORT FOR BAND 12

- Many devices currently support only 2 sub-1GHz ports and AT&T already needs more than that for its existing bands.
  - Band 17 (Lower 700 MHz B & C Blocks)
  - Band 5 (850 MHz)
  - Band 29 (Lower 700 MHz D & E Blocks)
- AT&T will require additional sub-1 GHz ports for future needs – 600 MHz, international LTE roaming.
- Forcing AT&T to use a low-band port for Band 12 would require it to sacrifice another band.
- Adding a port (and filter) AT&T does not need would unnecessarily add to the challenges in board layout and form factor.

PROBLEMS WITH USING SAME PORT FOR BAND 12/17

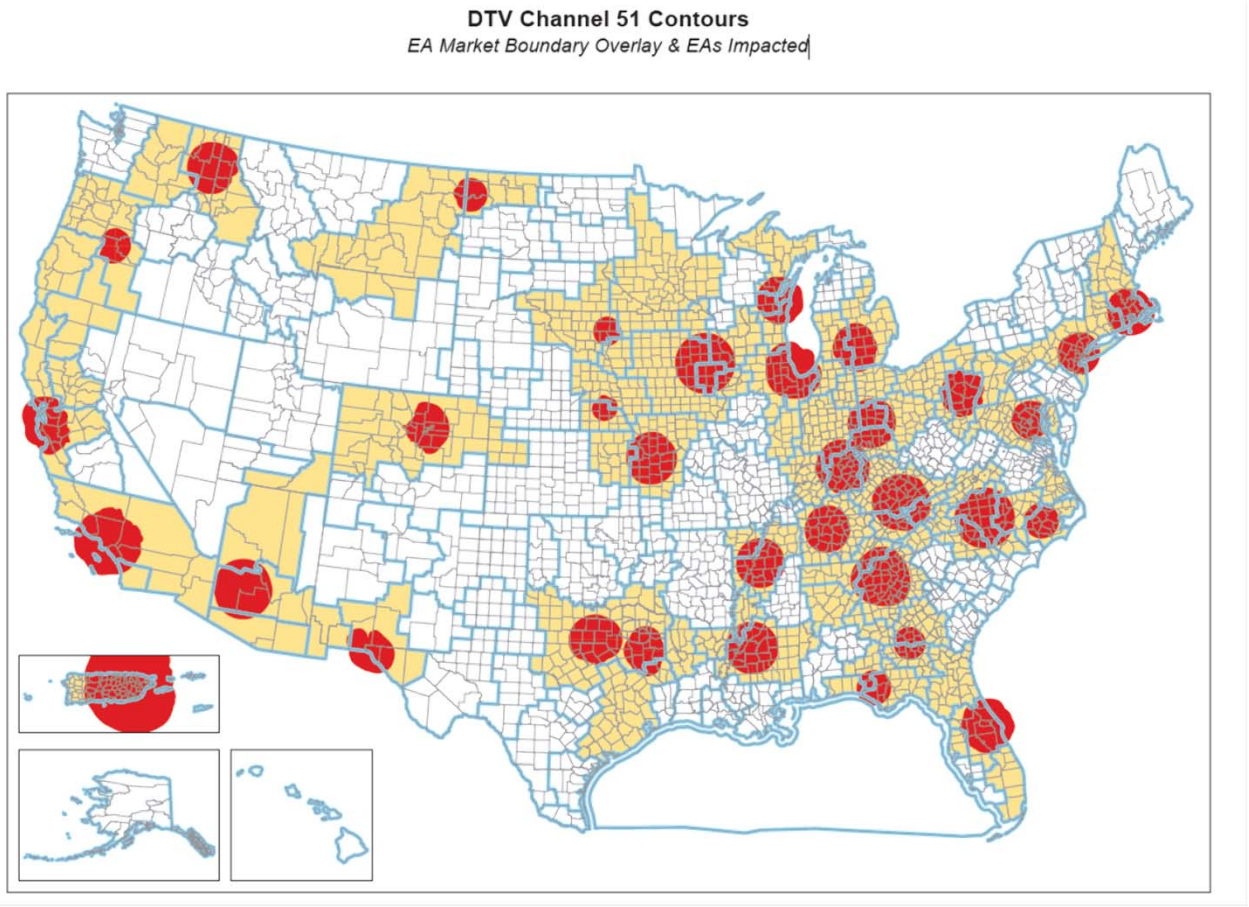
- Requires a switch that is set to either Band 12 or Band 17. No carrier uses such a switch today, and for good reason.
- The addition of such a switch would result in insertion loss, causing degraded performance, including:
  - Reduced throughput
  - Reduced coverage
  - Reduced battery life
- Since this approach would require both an additional switch and an additional filter, it would also create more challenges in board layout and form factor limitations.
- A Block licensees previously rejected this approach precisely due to the performance degradation:

"Qualcomm has . . . offered a modified RTR8600 that could support a second 700 MHz band class, as well as the 850 MHz cellular band, by utilizing an external switch. Qualcomm informed A Block licensees, however, that an external switch would degrade performance of the device. Consequently, no Lower A Block operator was interested in this modified RTR8600." (Qualcomm Comments, at 60)

A BAND 12 MANDATE WOULD NOT "FIX" A BLOCK ISSUES

- It would not remove Channel 51 exclusion zones, which would continue to deter A Block deployment.
- It is not needed to ensure availability of Band 12 devices.
- It would not even enable A Block licensees to achieve greater scale in device purchases (even assuming that is a valid basis for the mandate, which it is not).
  - A Block Licensees would not purchase Band 12/17 models designed for use on AT&T--no backward compatibility to CDMA/EV-DO.
  - Current Band 12 devices derived from Band 13 LTE models.

A-BLOCK EXCLUSION ZONES COVER 30 OF THE TOP 100 MARKETS



A BAND 12 MANDATE NOT NEEDED TO DEVELOP BAND 12 DEVICE ECOSYSTEM

- A Band 12 ecosystem already exists:
  - U.S. Cellular already offers ten Band 12 LTE smartphones from four different manufacturers (Samsung, Motorola, Kyocera, and LG) and recently announced that it has "more devices to come throughout the year."
  - U.S. Cellular offered the state-of-the-art Galaxy S4 at the same time as AT&T, Verizon, and T-Mobile.
  - It has been widely reported that U.S. Cellular will also offer a Band 12 version of Motorola's highly anticipated flagship device, the Moto X "XFON" when it is released later this year.
  - U.S. Cellular offers a Band 12 Tablet, a modem, and 2 Mobile Hotspots

BAND 12 MANDATE NOT NEEDED FOR ROAMING

- With broad availability of multi-band LTE chipsets, every operator has many LTE roaming options.
- Many AT&T's LTE devices, for example, have Band 17 (700 MHz), Band 4 (AWS), Band 2 (cellular), and Band 5 (PCS).
- AT&T, Verizon, Sprint, T-Mobile, Clearwire, and others are all deploying LTE networks in various bands, and A-Block licensees with no LTE device base have maximum flexibility to plan their device portfolios to support roaming on any of those networks.
- Sprint's CEO: "recently conducted . . . LTE roaming trials with C Spire, and that it was working with other operators on similar trials." *See* Dan Meyer, *CCA Spring 2013: Sprint Nextel moves to enable LTE roaming*, RCRWireless, Apr. 18, 2013.
- CCA recently issued an RFP "for organizations interested in hosting the Data Services Hub, and TNS was selected." "The TNS Data Services Hub . . . will provide participating operators the opportunity to connect for services including 4G LTE roaming, Wi-Fi access and interoperability with requisite 3G roaming fallback." *See* Transaction Network Services, Press Release, TNS Delivers Next Generation Data Services Hub Including LTE Roaming Solutions for CCA Members (Mar. 12, 2013)

THE PROPOSED MANDATE WOULD BE UNLAWFUL

- Under the Communications Act, the Commission has no authority over device makers and can issue regulations affecting devices only to the extent that those devices are actually used in a transmission. *American Lib. Ass'n* v. *FCC*, 406 F.3d 689, 703 (D.C. Cir. 2005) ("at most, the Commission only has general authority [under the Act] to regulate apparatus used for the receipt of radio or wire communication while those apparatus are engaged in communication").
- Accordingly, as many recent cases have confirmed, the Commission must identify a specific grant of authority in Title III that would authorize the proposed mandate.
- Section 303(b), which was the basis for the Commission's data roaming rules, cannot support a Band 12 mandate, because a rule requiring components that will not be used cannot be characterized as prescribing the "nature" of any licensee's service.
- Nor can the Commission rely on Section 316, because (1) a Band 12 mandate would fundamentally change the terms of the license, *Community Television, Inc.* v. *FCC*, 216 F.3d 1133, 1140-41 (2000), and (2) any "public interest" benefits of such a modification are extremely speculative and likely nonexistent, given that a robust Band 12 device ecosystem already exists, device makers have no duty to deal with any provider, and A Block providers would need CDMA fallback and still face Channel 51 exclusion zone and E Block interference obstacles.
- The D.C. Circuit has made clear that Sections 301 and 303(r) are not independent grants of authority. *Comcast Corp.* v. *FCC*, 600 F.3d 642, 652-54 (D.C. Cir. 2010); *Motion Picture Ass'n of Am., Inc.* v. *FCC*, 309 F.3d 796, 806 (D.C. Cir. 2002).

E-BLOCK INTERFERENCE
(Flaws with Dish Analysis)

- Unrealistic LTE signal levels
  - DISH erroneously assumes LTE signals on the ground between -40dBm and -10dBm within 1km of LTE transmitters (typically less than -50dBm and much lower at the cell edge).
- Understates E-Block signal levels near transmitters
  - DISH's analysis does not rely on actual field measurements
  - Wireless Strategy field measurements during DISH Trial show levels on the ground often above -26dBm
- Ignores interference beyond 1km
  - DISH reports its E-Block and LTE signal level estimates only within 1 km of the transmitter. And even at the inflated LTE signal levels and understated E-Block signal levels it assumes, DISH's analysis confirms that E-Block signals overwhelm LTE beyond 1 km.
- Assumes all E-Block and LTE transmitters are collocated.